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# ***Public Utilities Commission of the State of California***

## ***Results of Public Agenda 3140***

***Meeting Held on Thursday, October 7, 2004 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**Geoffrey F. Brown**

**Susan P. Kennedy**

**Loretta M. Lynch**

**Carl W. Wood**

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings**

**505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> Auditorium (10 a.m.) <b><i>Open to the Public</i></b>
Monday, October 25, 2004 (San Francisco)	Thursday, October 28, 2004 (San Francisco)
Monday, November 15, 2004 (San Francisco)	Friday, November 19, 2004 (San Francisco)
Monday, November 29, 2004 (San Francisco)	Thursday, December 02, 2004 (San Francisco)
Monday, December 13, 2004 (San Francisco)	Thursday, December 16, 2004 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor  
(415) 703-2074 E-mail: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)



This location is accessible to people with disabilities. If specialized accommodations for the disabled are needed, e.g. sign language interpreters, please call the Public Advisor at (415) 703-2074 or TTY# (415) 703-5282 or toll free # 1-866-836-7825 three business days in advance of the meeting.

## PUBLIC COMMENT

**The following items are not subject to public comment:**

- All items on the closed session agenda; these are HEX and EX items.
- 

### Public Comment:

Re 23:

Bob Duistermars, Central County United Way, Hemet, CA  
 Dennis Grizziell, Gateway Chambers Alliance, Garden Grove, CA  
 Geoffrey Stone, Inland Valley Economic Development Corp., Claremont, CA  
 Ramon Diaz, Fair Housing Council of Orange County, San Juan Capistrano, CA  
 Tony Monroy, South Gate Chamber of Commerce, South Gate, CA

Re 27:

Eric H. Edwards, Office of U.S. Rep. Jane Harman, Washington, D.C.  
 John Parsons, So. Bay Cities Council of Governments, Redondo Beach, CA  
 Olivia Lopez, City of Torrance, Torrance, CA  
 Tom Martin, County of Los Angeles, Manhattan Beach, CA

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Orders and Resolutions

- |                    |   |
|--------------------|---|
| <b>1</b><br>[3748] | <b>Res TL - 19049</b><br>Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.<br><b>Outcome Approved</b><br>Yes: (Brown, Kennedy, Lynch, Peevey, Wood)<br>No: (none)<br>Abstain: (none)<br>Absent: (none)  |
| <b>2</b><br>[3749] | <b>Res ALJ 176-3140</b><br>Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.<br><b>Outcome Approved</b><br>Yes: (Brown, Kennedy, Lynch, Peevey, Wood)<br>No: (none)<br>Abstain: (none)<br>Absent: (none) |

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- 3**  
[3731]      **Res T-16855 - Verizon California, Inc. (Verizon).**  
This resolution directs Verizon to file an application to request clarification of Finding of Fact (FOF) 3 in D96-10-037 and FOF 15 in D02-10-040 as to whether developers making contributions in aid of construction are entitled to refunds of over-collected federal taxes they paid to telecommunications utilities calculated pursuant to "Method 5" for the period from September 12, 2001 to September 11, 2003. (Advice Letter 10584, filed August 12, 2003)  
Agenda 3137, Item 21 8/19/2004 (Staff);  
Agenda 3138, Item 6 9/2/2004 (Staff)  
**Outcome    Withdrawn**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 4**  
[3824]      **R98-07-038 - Rulemaking for purposes of revising General Order 96-A regarding informal filings at the Commission.**  
This interim decision adopts rules revisions that will eventually be codified in General Order 96-B and that concern advice letter filing, service, and suspension.  
(Comr Kennedy - ALJ Kotz)  
Agenda 3139, Item 7 9/23/2004 (Staff)  
**Outcome    Held (10/28/04, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 5**  
[3863]      **C04-04-030 - Fred A. Patzke and Josephine Patzke vs. Valley Breeze Mobilehome Park.**  
Fred and Josephine Patzke are residents of Valley Breeze Mobile Homes Park (Valley Breeze) in Yucaipa. They complain that the owners of the park have not correctly provided gas service rates and rebates. Based on pleadings filed by the parties and on an analysis filed by Southern California Gas Company (SoCalGas), this decision concludes that Valley Breeze is in compliance with SoCalGas tariffs and with Pub. Util. Code §739.5, with the exception of its policy on gas company rebates. The decision directs Valley Breeze to recalculate rebates it has received from SoCalGas in the past three years and credit the accounts of submetered tenants in the manner set forth in §739.5(b) and SoCalGas Schedule GM, Rule 24(B)(2)(a). This proceeding is closed.  
(Comr Brown - ALJ Walker)  
**Outcome    Signed**  
[D04-10-001](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
-

**6**

[3877]

**R01-12-009 - Order Instituting Rulemaking on the Commission's own motion to evaluate existing practices and policies for processing offset rate increases and balancing accounts in the water industry to decide whether new processes are needed.**

This decision grants Southern California Water Company's Petition for Modification of D03-06-072, as modified by D04-03-041 and D04-03-049. This proceeding is closed.

(Comr Brown - ALJ Econome)

**Outcome Signed**[D04-10-002](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**7**

[3880]

**Res W-4497 - Del Oro Water Company (DOWC), Paradise Pines District.**

This resolution authorizes DOWC, Paradise Pines District a rate base offset revenue increase of \$15,510 or 1.21%. (Supplement Advice Letter 124-A, filed August 19, 2004)

Agenda 3139, Item 25 9/23/2004 (Kennedy)

**Outcome Approved (Comr. Kennedy will file a concurrence.)**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**8**

[3903]

**A04-01-022 - Eschelon Telecom, Inc, (Applicant).**

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and resold interexchange telecommunications services. This proceeding is closed.

(Comr Kennedy - ALJ O'Donnell)

**Outcome Signed**[D04-10-003](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

- 9**  
[3907]      **Res W-4501 - San Jose Water Company (SJWC).**  
This resolution authorizes SJWC to carry in its balancing account, the over-collection totaling \$382,764 until such time that the balance exceeds 2% of its authorized revenue. (Advice Letters 345 and 346, filed March 30, 2004)  
**Outcome    Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 10**  
[3910]      **A04-02-011 - Verizon California, Inc.**  
This decision finds that the 900/976 report requirement is no longer necessary and suspends it. This proceeding is closed.  
(Comr Lynch - ALJ Bushey)  
**Outcome    Signed**  
[D04-10-004](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 11**  
[3911]      **A04-07-040 - MCCC ICG Holdings LLC and ICG Communications, Inc.**  
This decision grants the transfer of control of ICG Telecom Group, Inc. to MCCC ICG Holdings LLC. This proceeding is closed.  
(Comr Kennedy - ALJ Galvin)  
**Outcome    Signed**  
[D04-10-005](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 12**  
[3912]      **Res W-4502 - Union Pacific Railroad Company, Keene Water System (UPKWS).**  
This resolution authorizes UPKWS a new memorandum account to track the cost associated with water hauling. (Advice Letter 1, filed August 16, 2004)  
**Outcome    Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 13 (Rev.)**      **A04-01-016 - Pacific Gas and Electric Company (PG&E).**  
[3913]      This decision grants PG&E authority under Public Utilities Code Section 851 to grant an easement to Sunrise Power Company, LLC for interconnection facilities. This proceeding is closed.  
(Comr Peevey - ALJ Walwyn)  
10/06/2004 - This revision was not shown on the Agenda mailed to the public.  
**Outcome   Held (10/28/04, Consent Agenda. Further review.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 14**      **A04-07-039 - Pacific Gas and Electric Company (PG&E) and Solano County Farmlands and**  
[3915]      **Open Space Foundation.**  
This decision grants the unopposed application of PG&E and Solano Land Trust of an amendment to an option agreement previously approved by the Commission to purchase certain PG&E land parcels in Solano County. This proceeding is closed.  
(Comr Peevey - ALJ DeBerry)  
**Outcome   Signed**  
[D04-10-006](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 15**      **I97-07-018 - In the matter of the investigation on the Commission's own motion into the**  
[3916]      **operations, practices, rates and charges of the Hillview Water Company, Inc., a corporation,**  
                 **and Roger L. Forrester, the principal shareholder and president.**  
This decision grants the unopposed petition for modification of D01-10-025 and authorizes Hillview Water Company, Inc. (Hillview) to transfer the exemption from the moratorium on new service connections between two parcels of land that Petitioner owns. The transfer will have no adverse effect on the Hillview's water supply. This proceeding is closed.  
(Comr Kennedy - ALJ Vieth)  
**Outcome   Signed**  
[D04-10-007](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 16**  
[3917]      **A04-01-036 - NobelTel, L.L.C. (Applicant).**  
This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services. The applicant was previously authorized to resell interexchange services. This proceeding is closed.  
(Comr Kennedy - ALJ O'Donnell)  
**Outcome Signed**  
[D04-10-008](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 17**  
[3919]      **A04-02-016 - Charles Stanley, dba Morongo Basin Airport Transport (Applicant).**  
This decision authorizes Applicant to operate as a passenger stage corporation between points in Los Angeles, Riverside, and San Bernardino Counties, on the one hand, and Los Angeles International Airport, Ontario International Airport, Los Angeles Amtrak Station, and Los Angeles Greyhound Station, on the other hand. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
[D04-10-009](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 18**  
[3920]      **A04-04-029 - Abbas T. Daryaei, dba American Shuttle (Applicant).**  
This decision authorizes Applicant to operate as a passenger stage corporation between points in Orange County and John Wayne Airport, and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
[D04-10-010](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

**19**

[3921]

**A04-06-013 - Bahram Shahab and Mehrdad Haji Moradi, dba LAXpress Airport Shuttle and Xpress Shuttle.**

This decision authorizes Bahram Shahab and Mehrdad Haji Moradi to transfer their passenger stage corporation (PSC) certificate to Consolidated Airport Transportation Systems, Inc. (Transferee), and Transferee is authorized to extend the PSC authority and establish a zone of rate freedom. This proceeding is closed.

(Exam Clark)

**Outcome Signed**[D04-10-011](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**20**

[3927]

**R\_\_\_\_\_ - Rulemaking to set hourly rates for purposes of calculating intervenor compensation awards, pursuant to Public Utilities Code Section 1801 and following, for work performed in calendar year 2005.**

This decision commences the workshop and rulemaking process set forth in Resolution ALJ-184 (dated August 19, 2004) for developing hourly rates to be used in calculating intervenor compensation awards for work performed in calendar year 2005.

**Outcome Signed**[R04-10-010](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)



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## Regular Agenda

### Energy Orders

**21**

[3866]

**R04-04-003 - Order Instituting Rulemaking to promote policy and program coordination and integration in electric utility resource planning.**

This interim decision provides definition and clarification with respect to the policies for resource adequacy adopted in D04-01-050. Among other things, the Commission revisits the schedule for implementing the 15-17% planning reserve margin requirement adopted in D04-01-050 in light of new concerns about the reliability of California's electricity grid in the near term. This interim decision also addresses the next procedural steps that are required to ensure that a functioning regulatory program for resource adequacy is implemented during 2005.

(Comr Peevey - ALJ Wetzell)

**Outcome Held (10/28/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**21a**

[3931]

**ALTERNATE TO ITEM 3866**

This alternate decision provides various different definitions and clarifications of the policies for resource adequacy adopted in D.04-01-050. It differs from the draft decision in areas of coincidence adjustments of load forecasting protocols, the basis for LSE load forecasts, contracts with liquidated damage provisions, and treatment of existing DWR contracts, among other things. It also determines that the schedule for implementing the 15-17% planning reserve margin requirement should remain January 1, 2008, consistent with the schedule adopted in D.04-01-050.

(Comr Lynch)

**Outcome Held (10/28/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**22**

[3871]

**A00-03-032 - Pacific Gas and Electric Company (PG&E).**

This decision authorizes PG&E under Pub. Util. Code §851 to enter into an irrevocable lease, pursuant to the Optical Fiber Installation and Indefeasible Right to Use Agreement between PG&E and WilTel Communications, LLC. (WilTel), that would permit the installation and use of fiber optic facilities on PG&E's transmission towers, substations, rights-of-way, and other facilities. The granting of the application does not expand the authority previously granted to WilTel. WilTel is authorized to undertake only those activities on PG&E's property that are authorized by its certificate of public convenience and necessity. This proceeding is closed.

(Comr Peevey - ALJ O'Donnell)

**Outcome Held (10/28/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**23**

[3899]

**A00-11-038 - Southern California Edison Company.**

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. The primary purpose of this decision is to adopt a cost allocation methodology that will be applied to the revenue requirement of the California Department of Water Resources for its power purchases in 2004 and beyond.

(Comr Brown, Comr Lynch - ALJ Allen)

Agenda 3139, Item 38 9/23/2004 (Brown)

**Outcome Held (10/28/04. Ban on ex parte contact from midnight 10/19/04 through the end of the Commission Meeting on 10/28/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**23a**

[3900]

**ALTERNATE TO ITEM 3899**

A00-11-056, A00-10-028 - Related matters. This alternate uses the ALJ's proposed decision as a starting point, but reaches a different conclusion on the appropriate percentage unavoidable cost allocation to each utility. SDG&E is allocated a slightly lower percentage than under the ALJ's decision, with the remainder of the costs split between PG&E and SCE, in the manner to which they agreed in the Settlement Agreement.

(Comr Peevey)

Agenda 3139, Item 38a 9/23/2004 (Brown)

**Outcome Held (10/28/04. Ban on ex parte contact from midnight 10/19/04 through the end of the Commission Meeting on 10/28/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**23b**

[3905]

**ALTERNATE TO ITEM 3899**

A00-11-056, A00-10-028 - Related matters. This alternate decision adopts the same allocation methodology as the Proposed Decision. DWR's revenue requirement is the same in this alternate as in the Proposed Decision. The alternate decision departs from ALJ Allen's draft decision by describing the \$290 million in excess monies the Energy Division has identified DWR would overcollect given its current revenue requirement.

(Comr Lynch)

Agenda 3139, Item 38b 9/23/2004 (Brown)

**Outcome Held (10/28/04. Ban on ex parte contact from midnight 10/19/04 through the end of the Commission Meeting on 10/28/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**23c**

[3906]

**ALTERNATE TO ITEM 3899**

A00-11-056, A00-10-028 - Related matters. This alternate adopts a permanent allocation of the DWR revenue requirement by allocating the costs among utilities as follows: costs up to market level are allocated on a cost-follows-contracts basis, and above market costs are allocated on an equal cents per kilowatt-hour basis.

(Comr Brown)

Agenda 3139, Item 38c 9/23/2004 (Brown)

**Outcome Held (10/28/04. Ban on ex parte contact from midnight 10/19/04 through the end of the Commission Meeting on 10/28/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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## Energy Resolutions and Written Reports

**24**

[3883]

**Res E-3890 - San Diego Gas & Electric Company (SDG&E).**

SDG&E requests approval of a new renewable resource procurement contract. (Advice Letter 1596-E, filed June 15, 2004)

Agenda 3139, Item 41 9/23/2004 (Staff)

**Outcome Approved (Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to file a dissent.)**

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

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**Telecommunication Orders**

**25** **A00-12-015 - California Association of Competitive Telecommunications Carriers.**  
[3530] This decision approves in part the Competitive Local Exchange Carriers' request for advice letter treatment of Sections 851 through 854 matters. This proceeding is closed.  
(Comr Lynch - ALJ Galvin)  
Agenda 3135, Item 6 6/9/2004 (Kennedy);  
Agenda 3136, Item 3 7/8/2004 (Kennedy);  
Agenda 3138, Item 35 9/2/2004 (Peevey)  
**Outcome Held (10/28/04. Further consideration.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**26** **R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.**  
[3764] I95-04-044 - Related matters. This decision addresses the approval and implementation of batch hot cut processes and related pricing applicable to SBC California and Verizon California, Inc. These findings are the result of the workshops and evidentiary hearings conducted pursuant to the Federal Communications Commission Triennial Review Order, adopted on February 20, 2003.  
(Comr Kennedy - ALJ Pulsifer)  
Agenda 3138, Item 37 9/2/2004 (Staff);  
Agenda 3139, Item 47 9/23/2004 (Peevey)  
**Outcome Held (10/28/04. Further consideration.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**27** **R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.**  
[3851] I95-04-044 - Related matters. This decision implements the 310/424 area code split as previously authorized in D00-09-073. The new 424 area code can be dialed on a permissive basis beginning May 28, 2005 and on a mandatory basis on September 10, 2005.  
(Comr Lynch - ALJ Pulsifer)  
Agenda 3139, Item 48 9/23/2004 (Kennedy)  
**Outcome Defeated**  
Yes: (Brown)  
No: (Kennedy, Lynch, Peevey, Wood)  
Abstain: (none)  
Absent: (none)

**27a**

[3856]

**ALTERNATE TO ITEM 3851**

I95-04-044 - Related matters. This alternate draft decision finds that with over two million unused and available telephone numbers still in existence in the 310 area code, substantial resources are still available to support customer and carrier needs in the 310 even at the rate center level. Accordingly, it is not necessary at this time to split the 310 area code by implementing the back-up area code split plan adopted in D00-09-073. The alternate further finds that recent conservation measures implemented in the 310 have resulted in a significant return of numbers to the 310 number pool as well as to the NXX code reserves. Given the effectiveness of past conservation efforts, further conservation measures should be taken to increase the efficient management of number resources and to extend the life of the 310 area code.

(Comr Lynch)

Agenda 3139, Item 48a 9/23/2004 (Kennedy)

**Outcome Defeated (Comr. Lynch reserves the right to issue remarks.)**

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

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**Telecommunication Resolutions and Reports****28**

[3852]

**Res T-16874 - AT&T Communications of California, Inc. (AT&T).**

This resolution grants Carrier of Last Resort status to AT&T in Verizon's service territory; denies AT&T's request to file for California High Cost Fund-B subsidy in Verizon's service territory based on UNE-P without a Commission directive; denies AT&T's request for exemption from the Customer Primary Line certification requirements of Resolution T-16018. The resolution orders Telecommunications Division to inform AT&T of status of its remittances to the Commission; recommend suitable penalties for violation of Resolution T-16018; and design and maintain a data base with input from utilities to identify duplicate claims in overlapping service territories.

Agenda 3139, Item 49 9/23/2004 (Staff)

**Outcome Held (10/28/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**29**

[3884]

**Res T-16856 - SureWest Telephone Company (SureWest).**

This resolution grants SureWest's 2003 Shareable Earnings advice letter filing to defer the shareable earnings amount to the final decision in the Petition for Modification of D01-06-077, A99-03-025. (Advice Letters 932 and 932A, filed April 23, 2004 and July 14, 2004 respectively.)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**30**

[3885]

**Res T-16857 - Citizens Telecommunications Company of California, Inc. (CTC).**

This resolution grants CTC's 2003 Shareable Earnings advice letter filing subject to any corrections, adjustments or refunds that result from future Commission decisions or actions. (Advice Letter 836, filed April 20, 2004)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**Water/Sewer Orders****31**

[3789]

**R97-10-049 - Commission Order Instituting Rulemaking on the Commission's own motion to set rules and to provide guidelines for the privatization and excess capacity as it relates to investor owned water companies.**

This decision denies the petition of the California Water Association to modify D03-04-028. This proceeding is closed.

(Comr Kennedy - ALJ Bushey)

Agenda 3138, Item 41 9/2/2004 (Kennedy)

**Outcome Held (10/28/04. Possible Alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



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## Commissioner's Reports

**32**

[3932]

### **President Peevey Report**

Appointment of Steve Larson to replace Commissioner Geoffrey F. Brown as a member of the Pacific Forest and Watershed Lands Stewardship Council.

### **Outcome   Approved**

Yes: (Brown, Kennedy, Peevey)

No: (none)

Abstain: (Lynch, Wood)

Absent: (none)

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal

- 34**                    **A02-12-027 - Conference with Legal Counsel - Application for Rehearing**  
 [3606]                A02-12-028, I03-03-016 - Related matters. Disposition of the application for rehearing of D03-12-058 filed by Southern California Edison Company (SCE). D03-12-058 found Local 483 Utility Workers Union of America eligible for intervenor compensation under Chapter 9, Article 5, Section 1801, et seq., of the Public Utilities Code.  
                          Agenda 3135, Item 66 6/9/2004 (Staff);  
                          Agenda 3136, Item 98 7/8/2004 (Wood);  
                          Agenda 3137, Item 98 8/19/2004 (Staff);  
                          Agenda 3138, Item 49 9/2/2004 (Staff);  
                          Agenda 3139, Item 54 9/23/2004 (Staff)  
**Outcome Defeated**  
                          Yes: (Brown)  
                          No: (Kennedy, Lynch, Peevey, Wood)  
                          Abstain: (none)  
                          Absent: (none)
- 35**                    **A02-12-027 - Conference with Legal Counsel - Application for Rehearing**  
 [3831]                A02-12-028, I03-03-016 - Related matters.  
                          Agenda 3137, Item 111 8/19/2004 (Staff);  
                          Agenda 3138, Item 50 9/2/2004 (Staff);  
                          Agenda 3139, Item 55 9/23/2004 (Staff)  
**Outcome Signed (Comr. Brown reserves the right to file a dissent.)**  
                          D04-10-012  
                          Yes: (Kennedy, Lynch, Peevey, Wood)  
                          No: (Brown)  
                          Abstain: (none)  
                          Absent: (none)

**36**

[3818]

**I04-04-024 - Conference with Legal Counsel – Application for Rehearing**

Disposition of Application of Sound Energy Solutions for Rehearing of I04-04-024. The Order institutes an investigation into the proposal of SES filed with the Federal Energy Regulatory Commission to construct a liquefied natural gas terminal in Long Beach, California.

Agenda 3138, Item 54 9/2/2004 (Staff)

**Outcome Held (10/28/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**37**

[3833]

**R01-09-001 - Conference with Legal Counsel - Application for Rehearing**

I01-09-002 - Related matters. Disposition of Applications for Rehearing of D04-02-063 filed by the Office of Ratepayer Advocates and The Utility Reform Network. In D04-02-063, the Commission allowed SBC Pacific Bell Telephone Company to write off approximately \$400 million of a Post Retirement Benefit Other Than Pension regulatory assets above the line in 1998.

Agenda 3138, Item 55 9/2/2004 (Staff);

Agenda 3139, Item 57 9/23/2004 (Staff)

**Outcome Held (11/19/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**38**

[3887]

**R00-02-004 - Conference with Legal Counsel – Application for Rehearing**

Disposition of Applications for Rehearing of D04-05-057 filed by AT&T Wireless, et al. (Joint Wireless Carriers), Nextel of California, Inc., and the Wireline Group. D04-05-057 issued General Order 168, Rules Governing Telecommunications Consumer Protection. Rehearing applicants allege that the provisions and the adoption of G.O. 168 are preempted, unconstitutional, and in violation of state law. Applicants also assert that the time allowed for implementation is impracticable and not supported by the record. The Wireline Group also filed a second application for rehearing solely concerning issues of timing and implementation.

Agenda 3139, Item 58 9/23/2004 (Staff)

**Outcome Signed (Comr. Kennedy reserves the right to file a dissent. Pres. Peevey reserves the right to join Comr. Kennedy's dissent.)**

D04-10-013

Yes: (Brown, Lynch, Wood)

No: (Kennedy, Peevey)

Abstain: (none)

Absent: (none)

**39**

[3895]

**R03-09-006 - Conference with Legal Counsel – Application for Rehearing**

Disposition of the application for rehearing of D04-04-038 filed by AT&T Wireless Services of California, LLC, Pacific Bell Wireless, LLC dba Cingular Wireless, Nextell of California, Inc, Sprint Spectrum L.P. dba Sprint, Omnipoint Communications, Inc. dba T-Mobile, and Verizon Wireless (collectively 'Wireless Carriers'). D04-04-038 resolved petitions to modify R03-09-006 and motions that sought to change the named respondents to this proceeding. D04-04-038 also granted motions for confidentiality filed by several utilities.

Agenda 3139, Item 59 9/23/2004 (Staff)

**Outcome Held (10/28/04. )**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)